IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 15863 of 2007(L)

OS.223/2002 of PRL.M.C., KOCHI
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PETITIONER:

SANTHINI THEVANKUTTY, AGED 46,
D/O.LATE THEVANKUTTY, RESIDING AT ROAD
PURAMBOKE, SOUTH OF AJANTHA TALKIES JUNCTION,
9/1188, L.G.PAI ROAD, KOCHI-2.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENTS:
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1. **A.INDIRA, AGED 61, W/O.N.V.SADANANDAN,**
H.NO.CC.4/1088, (PRESENT NO.C.C.4/1086, LANE,
NORTH CHERLAI, COCHIN-2).

2. **A.REMA, AGED 46, D/O.ANANTHA BHAT,**
-DO- -DO-

3. **SADANANDA BHAT, S/O.D.ANANTHA BHAT,**
-DO- -DO-

4. **CORPORATION OF KOCHI, OFFICE OF THE**
CORPORATION OF KOCHI, ERNAKULAM REP.BY
SECRETARY.

5. **THE TAHSILDAR, TALUK OFFICE, FORT KOCHI.**

6. **CHACKO CICILY, RESIDING AT ROAD**
PURAMBOKE (SOUTH OF AJANTHA TALKIES
JUNCTION) P.4/90, L.G.PAI ROAD, KOCHI-2.

7. **KARAMBY, W/O.LATE KARAMBAN, RESIDING**
AT ROAD PURAMBOKE, SOUTH OF AJANTHA TALKIES
JUNCTION, 9C/1187, L.G.PAI ROAD, KOCHI-2.

BY GOVERNMENT PLEADER SMT. R. BINDU.
BY ADV. SRI.PRAVEEN K.JOY,SC,COCHIN CORPORATION
SRI.K.V.SADANANDA PRABHU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF JUDGMENT IN OS 223/02 OF THE PRL.M.C, KOCHI DATED 4.7.03.**

EXT.P2 **TRUE COPY OF ORDER IN E.A.300/06 IN E.P.100/04 IN O.S.223/02 OF THE MUNSIFF COURT, KOCHI DATED 16.8.06.**

EXT.P3 **TRUE COPY OF THE POLICE PROTECTION ORDER DATED 13.4.07 OF THE MUNSIFF'S COURT, KOCHI.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 15863 OF 2007

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Dated this the 9th day of July, 2007.

J U D G M E N T

This writ petition is preferred challenging the order of the learned Munsiff Kochi E.A.300/06. By the said order the learned Munsiff has permitted the plaintiffs in the suit to bound the delivered property.

2. At the out set I may like to state that there is no question of delivery of the property for the reason that the suit is one for a mandatory injunction as well as permanent prohibitory injunction. The other defendant had trespassed into the property and had constructed structures and the Court directed the first defendant to take steps to demolish all that structures and that is the direction given by the Court. A further direction was also given to prevent defendants 2 to 5 from putting up any structures thereafter.

3. I am informed that the land involved is a puramboke land and now the Court had directed plaintiffs to bound the property. It is stated that no counter has been

filed and that admittedly the petitioners are entitled to. I am afraid how this conclusion has been arrived at by the learned Munsiff. This is a matter that has to be thoroughly examined and if it is a puramboke land what is the position etc. are to be looked into. But it has to be stated that defendants 2 to 5 in the suit cannot raise any objection because their right is only that of trespassers and that had been ordered to be removed by the Court. So it is for the Municipality and the plaintiff to decide what is to be done. It is not seen that the counter is filed by the Municipality before Court. I therefore set aside the order passed by the learned Munsiff and direct the Municipality to file a counter and thereafter, after hearing both sides appropriate orders are to be passed by the learned Munsiff after taking into consideration the purpose for which the mandatory injunction was ordered by the Court by removing obstructions. It appears that it is for a reasonable enjoyment of plaint A schedule property that the obstruction was removed from B schedule.

With this observation this writ petition is disposed of and the parties are directed to appear before Court on 30.7.2007.

M.N. KRISHNAN, JUDGE.

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